

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

TRANSLATION

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	See form PCT/ISA/210
Applicant's or agent's file reference 35269PCT		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/FR2004/050612	International filing date (day/month/year) 24.11.2004	Priority date (day/month/year) 24.11.2003	
International Patent Classification (IPC) or both national classification and IPC B65D51/24, B65D43/02, B65D43/12			
Applicant MALEK, Pierre			

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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PCT/FR2004/050612

Box No. I	Basis of this opinion
<p>1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).</p> <p>2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> in written format</p> <p><input type="checkbox"/> in computer readable form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed.</p> <p><input type="checkbox"/> filed together with the international application in computer readable form.</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search.</p> <p>3. <input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p> <p>4. Additional comments:</p>	

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International application No.
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	4-6, 8, 11	YES
	Claims	1-3, 7, 9-10, 12-17	NO
Inventive step (IS)	Claims		YES
	Claims	1-17	NO
Industrial applicability (IA)	Claims	1-17	YES
	Claims		NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: US-A-5 525 314
D2: US 2002/053528
D3: US-A-4 615 461
D4: US-A-4 342 403
D5: US-A-5 732 820
D6: WO 03/018420

Clarity PCT Article 6

2. Although claims 1 and 12 were drafted in the form of distinct independent claims, it seems that they have the same subject matter and that they only differ from each other by a variation in the definition of the subject matter for which protection is sought.

Consequently, these claims are not concise and therefore do not satisfy the requirements of PCT Article 6.

Novelty PCT Article 33(2)

3. The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of **claims 1-3, 7, 9, 10 and 12-17** does not meet

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the requirement of novelty defined in PCT Article 33(2).

3.1 Document D1 describes a tool storing device (10) (figures 1-8) comprising:

claim 1: - a container (14)

- closing means (12) complementary to said container, also being a gripping means .
- closing means comprises a flat horizontal part (12) and two vertical planes (20), the said vertical planes (20, 18) acting as a gripping means and forming with the said flat part a means for opening by exerting pressure on the said vertical planes

claim 2: - the tools are drill bits (31)

claim 3: - the flat part (12) is used for expulsion

claim 7: - the container (14) comprises at least one opening (14')

claims 12-17: a box with an opening system

3.2 Document D2 describes a tool storing device (figures 1-8) comprising:

claim 1: - a container (10)

- closing means (20) comprises a flat horizontal part (50) and two vertical planes (22) forming with the said flat part a means for opening by exerting pressure on the said vertical planes

claims 9-10: the cover is made of a semi-rigid plastic material

claims 12-17: a box with an opening system

Inventive Step PCT Article 33(3)

4. The present application fails to comply with the

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requirements of PCT Article 33(1) since the subject matter of **claims 4-6, 8 and 11** does not involve an inventive step as defined in PCT Article 33(3). In claims 4-6, 8 and 11, a slight modification of the storing device (sliding device, material, anti-slip agent) described in claim 1 is defined; this modification comes within the scope of the customary practice followed by persons skilled in the art and the advantages thus achieved can readily be foreseen (See Document D3: sliding tongues, Document D4 transparent material, Document D5: anti-slip agent). Consequently, the subject matter of claims 4-6, 8 and 11 does not appear to involve an inventive step.

Other comments

5. Contrary to the requirements of PCT Rule 5.1(a)(ii), the relevant prior art disclosed in documents **D1-D2** is not mentioned in the description, nor are these documents identified therein.